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IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE ESTATE OF)	Civil Action No. 89-1041
)	
DOLORES C. CASTRO)	DECISION AND ORDER
)	
_____)	

This matter came before the Court on June 29, 1993 for a hearing on the claim of Claimant Juan Q. Norita to ownership of two parcels of real property originally owned by Decedent Dolores C. Castro, by virtue of a warranty deed executed by one of Decedent's children. The Administrator claims that the deed is void and that the parcels passed to two of Decedent's grandchildren by partida.

I. FACTS

Dolores C. Castro had nine children, all now deceased but one. On January 12, 1972, one of her children, Jose C. Castro, executed a warranty deed to Claimant, purporting to convey two parcels of land, described as Lot Numbers 006 D 25 and 006 D 26, located in Garapan, Saipan. See Claimant's Exh. A. According to the Administrator, Mr. Castro had no authority to execute this

1 conveyance; and it is undisputed that he had no legal title to the
2 parcels when he conveyed them. At most, Mr. Castro had an
3 unadjudicated one-ninth interest in the parcels at the time.

4 In 1973, all nine children of Decedent executed quitclaim
5 deeds to the two parcels in favor of two of Decedent's
6 grandchildren, Remedio C. Guerrero (Lot 006 D 25) and Vicente I.
7 Castro (Lot 006 D 26). See *Administrator's Exhs. 3-9, 12-14.*
8 Remedio Guerrero and Vicente Castro obtained Certificates of Title
9 to the respective parcels in 1973. *Administrator's Exhs. 10, 15.*
10 Vicente Castro deeded his parcel to Candido I. Castro in 1981, who
11 obtained a Certificate of Title to Lot 006 D 26 that same year.
12 *Administrator's Exhs. 16, 17.*

13 At the evidentiary hearing, the Administrator introduced
14 testimony that Decedent's children quitclaimed their interests in
15 this property in order to give effect to a partida announced by
16 Decedent sometime in the 1950's, which gave the two Garapan
17 parcels to grandchildren living with Decedent. However, the
18 Petition for Decree of Final Distribution does not mention any
19 partida claim, but rather requests that ownership of the two
20 parcels be divided in nine equal shares among Decedent's nine
21 children.

22 23 II. ISSUE

24 Two issues are presented for the Court's determination:

25 1. What legal consequences, if any, flowed from the January
26 12, 1972 warranty deed executed by Jose C. Castro in favor of
27 Claimant?
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1 (Mo. Ct. App. 1977) (where grantor held leasehold interest,
2 warranty deed conveyed only leasehold); *Holmes v. Holmes*, 447
3 S.W.2d 432, 424 (Tex. Ct. App. 1969) (where grantor held only life
4 estate under terms of unprobated joint will with deceased wife,
5 deed of property to third person conveyed only life estate in one-
6 half of property).

7 Here, it is undisputed that Jose C. Castro did not have full
8 title to the parcels when he executed the warranty deed to
9 Claimant, nor did he acquire title later. Mr. Castro did,
10 however, possess a one-ninth interest in the property as one of
11 the heirs of Decedent. The facts are thus analogous to *Holmes*,
12 *supra*, 447 S.W.2d at 424. This Court therefore holds that
13 Claimant received a one-ninth interest in the Garapan properties
14 by virtue of the 1972 warranty deed from Jose C. Castro.^{1/}

15
16 **B. PARTIDA**

17 The Administrator introduced the testimony Decedent's
18 grandchildren Remedio Guerrero and Candido Castro, that Decedent
19 executed a partida sometime in the mid-1950's, giving the Garapan
20 parcels to the grandchildren who had lived in her household.
21 Quitclaim deeds were also introduced, wherein Decedent's children
22 conveyed their interests in the Garapan property to the
23 grandchildren. *Administrator's Exhs. 3-9, 12-14*

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26 ^{1/} Claimant may have other remedies as well. According to
27 the *Restatement of Restitution*, § 24, cmt. "e," states that "[i]f
28 a buyer accepts a [defective] conveyance with warranties, his
action is on the warranties." In the deed, Mr. Castro warranted
title to Claimant. Claimant may be entitled to damages at law for
breach of this covenant of warranty.

1 A court's determination of whether a decedent made a partida
2 entails "careful assessment and balancing of documentary and
3 testimonial evidence." *Estate of Taisakan*, 1 CR 328, 334
4 (D.N.M.I. App. 1982). Weighing the probative value of the
5 proffered evidence, the Court finds it insufficient to establish
6 a partida. First, the Administrator's Petition failed to mention
7 such a partida, instead requesting distribution of the properties
8 into nine shares. This fact raises the distinct possibility that
9 the testimony affirming the existence of a partida was a post-hoc
10 fabrication aimed at defeating Claimant's claim. Second, the two
11 witnesses who testified to the partida's existence were young
12 children at the time of its alleged execution, sometime in the
13 1950's. Moreover, their testimony was vague as to the date the
14 partida took place and as to other details of claimed event.

15 Third, the quitclaim deeds executed by Decedent's children
16 are equally well explained as reactions to Jose C. Castro's
17 unauthorized deed to Claimant. It is clear that Decedent's other
18 children knew of the conveyance by August 1972, as they had by
19 that date contacted the Land Commission and registered their
20 objection to the conveyance. *See Administrator's Exh. 1*. In
21 sum, the evidence here falls short of establishing that a partida
22 occurred.

23 IV. CONCLUSION

24 For the foregoing reasons, the Court hereby ORDERS:

25 1. An eight-ninths undivided share of the estate of Dolores
26 C. Castro, in particular the property described as Lot Nos. 006 D
27 25 and 006 D 26, is hereby distributed to the heirs of Dolores C.
28 Castro, with the exception of the estate of Jose C. Castro.

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2. A one-ninth undivided share of the estate of Dolores C. Castro is hereby distributed to Claimant Juan C. Norita.

So ORDERED this 16 day of November, 1993.


MIGUEL S. DEMAPAN, Associate Judge